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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,465	04/15/2004	Timothy Nepht Tillotson	10030534-1	8112

⁷⁵⁹⁰
AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
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EXAMINER

HU, JINSONG

ART UNIT	PAPER NUMBER
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2154

MAIL DATE	DELIVERY MODE
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07/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/825,465

Applicant(s)

TILLOTSON ET AL.

Examiner

JINSONG HU

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-23 are presented for examination. Claims 1, 3-4, 8, 10-11, 15-18 and 20-21 have been amended.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-7 and 15-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-7 claimed a method for controlling an instrument. However, applicant does not clearly define the exist format of the instrument in the specification such as software or hardware. Claims 15-23 has the same problem. Examiner suggests amend the claims to make the limitations related to hardware device as well as amend the specification to clearly points out the instrument is hardware device.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent

granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 3-4, 6-8, 10-11, 13-15, 17-18 and 20-23 are rejected under 35

U.S.C. 102(e) as being anticipated by Linley et al. (US 6,766,279).

6. As per claims 1 and 3-4, Linley teaches the invention as claimed including a method for remotely controlling an instrument, comprising [col. 1, line 54 – col. 2, line 13]:

receiving at least one communication from each of at least two clients, a first communication received from a first one of said at least two clients conforms to a first client specific protocol, a second communication received from a second one of said at least two clients conforms to a second client specific protocol, and said first client specific protocol being different from said second client specific protocol [col. 2, lines 14-23; col. 5, lines 29-54];

determining from which client each received communication was received [col. 6, lines 1-23];

determining an application resident on the instrument for which each received communication is intended, wherein at least one application is resident on the instrument; and transferring each received communication to the application determined to be the application for which each received communication is intended [col. 6, line 24 – col. 7, line 4].

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7. As per claim 6, Linley teaches the obtained additional communications are modified to produce client messages which are in appropriate format for the client [col. 6, lines 1-23].

8. As per claim 7, Linley teaches at least one obtained additional communication is in response to one of the communications received from one of the at least two clients, wherein the application tracks from which client the received communication originated, and wherein the application uses that tracking information to direct the at least one obtained additional communication to the client from which the received communication originated [col. 6, line 49 – col. 7, line 4].

9. As per claims 8, 10-11 and 13-14, since they are computer program claims of claims 1, 3-4 and 6-7, they are rejected for the same basis as claims 1, 3-4 and 6-7 above.

10. As per claims 15, 17-18 and 20-23, since they are device claims of claims 1, 3-4 and 6-7, they are rejected for the same basis as claims 1, 3-4 and 6-7 above.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 2, 5, 9, 12, 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Linley et al. (US 6,766,279) as applied to claims 1, 3-4, 6-8, 10-11, 13-15, 17-18 and 20-23, in view of Ezekeel (US 5,790,977).

13. As per claims 2, 5, 9, 12, 16 and 19, Linley teaches the invention substantially as claimed in claim 1. Linley does not specifically teach the protocol is SCPI protocol. However, Ezekeel on the other hand teaches using SCPI protocol communicating with instrument [col. 3, lines 44-59]. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to include utilize SCPI protocol in Linley's system because it is a an instrument industry standard protocol [Ezekeel, col. 3, lines 53-54].

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jinsong Hu whose telephone number is (571) 272-3965. The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jinsong Hu/

Primary Examiner, Art Unit 2154